

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
U.S. DISTRICT COURT
DISTRICT OF MASS.

02/16/05 7:18:22

DAVID RIBEIRO

Plaintiff,

v.

DAVID S. USHER, MARTIN W. NAREY,
PAUL M. KELLY, JAMES D. BRIANT,
LT. HIGGINS, WILLIAM BENNETT AS
DISTRICT ATTORNEY, HOLYOKE POLICE
DEPARTMENT, COMMONWEALTH OF
MASSACHUSETTS, CITY OF HOLYOKE
Defendants.

CIVIL ACTION
NO. 04-30201-KPN

U.S. DISTRICT COURT
DISTRICT OF MASS.

**THE DEFENDANTS WILLIAM BENNETT AS DISTRICT ATTORNEY AND THE
COMMONWEALTH OF MASSACHUSETTS OPPOSITION TO THE PLAINTIFF'S
MOTION TO AMEND COMPLAINT**

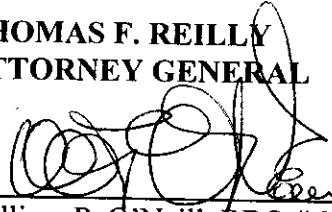
Now comes the Defendants William Bennett as District Attorney and the Commonwealth of Massachusetts and opposes the Plaintiff's Motion to Amend his Complaint.

In support of such opposition, the Defendants state that the proposed Amend Complaint is based on the same legal premise as the original Complaint to which the Defendants have filed a Motion to Dismiss based on prosecutorial immunity. The Plaintiff's proposed Amended Complaint is still based on his prosecution by the Commonwealth of Massachusetts for the alleged violation of the state's criminal law. The proposed Amended Complaint continues to fail to state a claim upon which relief can be granted since the Commonwealth, the District Attorney and any of his assistants are still immune from liability.

WHEREFORE, the Defendants William Bennett as District Attorney and the Commonwealth of Massachusetts oppose the Plaintiff's Motion to Amend his Complaint since the proposed Amended Complaint still fails to state a claim upon which relief may be granted.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

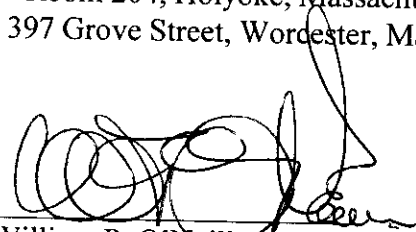


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DATED: February 14, 2005

CERTIFICATE OF SERVICE

I, William P. O'Neill, Assistant Attorney General, Western Massachusetts Division, 1350 Main Street, Springfield, MA 01103-1629 do hereby certify that on February 14, 2005, I caused the foregoing THE DEFENDANTS WILLIAM BENNETT AS DISTRICT ATTORNEY AND THE COMMONWEALTH OF MASSACHUSETTS OPPOSITION TO THE PLAINTIFF'S MOTION TO AMEND COMPLAINT to be served upon the parties in this action by mailing a copy of the same, postage prepaid, first class mail to the Plaintiff pro se, David Ribeiro, 629 Randall Road, Ludlow, Massachusetts 01056 and Attorneys for the other Defendants, Charles P. Lavelle, Esq., Holyoke Law Department, 20 Korean Veterans Plaza - Room 204, Holyoke, Massachusetts 01040 and Austin M. Joyce, Esq., Edward P. Reardon, P.C., 397 Grove Street, Worcester, Massachusetts 01605,



William P. O'Neill
Assistant Attorney General